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OFFICE OF PETITIONS

In re Application of :
Gordon J. Dow, et al. :
Application No. 09/830,037 :
Filed: April 20, 2001 :
Attorney Docket No. PU3556USW :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 2, 2002, which set a shortened statutory period for reply of three (3) months.

On December 24, 2002, a two-month extension of time and a Request for Continued Prosecution Application (RCE) were filed. On February 18, 2003, the USPTO mailed a Notice of Improper Request for Continued Prosecution Application (RCE) stating that 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. In view thereof and since a reply to the non-final Office action of July 2, 2002 to continue prosecution was not received, this application became abandoned on December 18, 2002.

Since the filing of the RCE on December 24, 2002 was improper, as noted above, the \$740 filing fee submitted is unnecessary. Accordingly, as authorized, the \$740 filing fee submitted for the RCE will be credited to Deposit Account No. 07-1392.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of James C. Kellerman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Kellerman

desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 1600, Art Unit 1617 for further processing.



Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: James C. Kellerman
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